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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT PAPER NUMBER

3623

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,323

Applicant(s)

FAY ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-63 are presented for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-31 and 60-63 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

While claims 1-31 and 60-63 recite a useful, concrete, and tangible result, they do not expressly apply, involve, use, or advance the technological arts. As recited, all steps could be performed entirely in the mind of a human being and therefore do not necessarily utilize technology, especially for any of the core steps of the invention, such

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as “selecting enhancement solutions based on the project information.” For purposes of amending the claims accordingly, please note that mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 32-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 32 recites “a reviewer” as an element of the system. It is not clear whether or not the “reviewer” is a piece of software implemented by the computer or an actual human being. A human being cannot be claimed as an element of a system. Therefore, the metes and bounds of claim 32 and all dependent claims are unclear. As a matter of fact, claim 38 expressly recites that “the reviewer is a human team of acoustical designers” while claim 39 recites that “the reviewer is a reviewing computer.” Again, a human being *per se* cannot be claimed as an element of a system.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-13, 25-27, 60, and 63 are rejected under 35 U.S.C. 102(b) as being anticipated by Johns Manville's acoustical testing services, as disclosed in the following references:

Higgins, "Don't Just Sit There" (published February 1999); and

Gornick, "The Quest for Quiet" (published December 1997).

Johns Manville discloses a method for enhancing the performance of a project, comprising the steps of:

[Claim 1] inputting project information, including a desired performance level (Higgins: ¶¶ 24, 26 – Customer Herman Miller explained to Johns Manville that it desired a performance level that would "improve the value of its free-standing panels for office without negatively impacting the acoustical results"); and

selecting enhancement solutions based on the project information (Higgins: ¶¶ 26-27 – Johns Manville recommended that less expensive panels be used instead);

[Claim 2] wherein the project information comprises building plans for a structure (Higgins: ¶¶ 26-28 – The office panels are part of the office building structure);

[Claim 3] wherein the project information comprises information on the uses of rooms within the structure (Higgins: ¶¶ 23, 26-28 – The fact that office panels are being assessed imparts knowledge that the rooms within the structure are being used for office-related activities);

[Claim 4] wherein the project information comprises information on interior structural elements (Higgins: ¶¶ 23, 26-28 – The panels are interior structural elements);

[Claim 5] wherein project information comprises information on areas within a structure, and wherein the desired performance level is a performance of noise reduction between the areas (Higgins: ¶¶ 24, 25, 28 – Johns Manville's acoustical testing is understood to evaluate the effectiveness of noise reduction techniques, such as installing noise-reducing panels; Gornick: ¶ 41);

[Claim 6] wherein the enhancement solutions are selected from a plurality of enhancement solutions stored in a sound control center (Higgins: ¶ 23 – All testing is performed at Johns Manville's NAVLAP-approved laboratory; therefore, the solutions yielded by the acoustical testing performed at the laboratory are understood to be "stored" in a sound control center, i.e., the laboratory);

[Claim 7] wherein each enhancement solution is combinable with another enhancement solution to form a combination of enhancement solutions (Higgins: ¶¶ 26-28 – Several combined solutions include eliminating some of the structural members, while redesigning the panels and using a different material to create at least some of the panels);

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[Claim 8] wherein a system performance rating is associated with each combination of enhancement solutions, and wherein each system performance rating is stored in the sound control center (Higgins: ¶¶ 25, 26-28 – Johns Manville measures sound transmission coefficients (STC) and noise reduction coefficients (NRC), which are used to evaluate acoustical ratings, and yields test results based thereon at the laboratory; therefore, it is understood that the laboratory somehow keeps track of, i.e., stores, information regarding system performance ratings);

[Claim 9] wherein each system performance rating is a field sound transmission class rating (Higgins: ¶¶ 25, 28 – STC and NRC measurements are collected during testing);

[Claim 10] wherein the step of selecting further comprises the step of choosing a combination of enhancement solutions with a system performance rating equal to or greater than the desired performance level (Higgins: ¶¶ 24, 26, 28);

[Claim 11] wherein a cost is associated with each combination of enhancement solutions and wherein the combination of enhancement solutions is also chosen based on cost (Higgins: ¶¶ 23-28);

[Claim 12] wherein the step of selecting further comprises the step of reviewing the project information to determine improvement areas (Higgins: ¶¶ 23-28);

[Claim 13] wherein the enhancement solutions are selected based upon the determined improvement areas (Higgins: ¶¶ 23-28);

[Claim 25] further comprising the step of modifying the inputted project information to incorporate the enhancement solutions (Higgins: ¶¶ 26-28 – Several combined solutions

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include eliminating some of the structural members, while redesigning the panels and using a different material to create at least some of the panels);

[Claim 26] wherein the modified inputted information describes a project operating at the desired performance level (Higgins: ¶¶ 23-28);

[Claim 27] further comprising the step of presenting the modified project information to a user (Higgins: ¶¶ 23-28);

[Claim 60] wherein each system performance rating is verified by experimentation (Higgins: ¶¶ 23-28);

[Claim 63] wherein the desired performance level is a field system sound transmission rating (Higgins: ¶¶ 25, 26-28).

8. Claims 1-13, 25-27, 60, and 63 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. As explained in the rejection under 35 U.S.C. 102(b) above, claims 1-13, 25-27, 60, and 63 are anticipated by Johns Manville's acoustical testing services, as disclosed in the Higgins, "Don't Just Sit There" (published February 1999) and Gornick, "The Quest for Quiet" (published December 1997). Johns Manville International, Inc. is not only the subject of these articles, but also the assignee of the instant application as well. Johns Manville's acoustical testing services were clearly made available to the public and understood to be provided as a service in exchange for payment, thereby raising issues of public use and sale of Applicant's invention.

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9. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows:

As explained in the rejection under 35 U.S.C. 102(b) above, claims 1-13, 25-27, 60, and 63 are anticipated by Johns Manville's acoustical testing services, as disclosed in the Higgins, "Don't Just Sit There" (published February 1999) and Gornick, "The Quest for Quiet" (published December 1997). Johns Manville International, Inc. is not only the subject of these articles, but also the assignee of the instant application as well. Johns Manville's acoustical testing services were clearly made available to the public and understood to be provided as a service in exchange for payment, thereby raising issues of public use and sale of Applicant's invention. Not enough disclosure is made available in the cited articles for the Examiner to definitively determine if Johns Manville also provided the specific services recited in claims 14-24, 28-59, 61, and 62. The assignee of the instant application, Johns Manville International, Inc., should have full knowledge of this information. Please explain the gamut of services provided by Johns Manville to the public more than one year prior to Applicant's filing date of November 13, 2000, especially as they relate to the claimed invention. In other words, Applicant and assignee are required to explain the differences, if any, between the claimed invention and the acoustical testing services provided by Johns Manville to the public more than one year prior to Applicant's filing date of November 13, 2000.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 14-24, 28-59, 61, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johns Manville's acoustical testing services, as disclosed in the following references:

Higgins, "Don't Just Sit There" (published February 1999); and

Gornick, "The Quest for Quiet" (published December 1997), as applied to claims 13, 25, and 27 above.

Regarding claims 14, 15, and 62, Johns Manville conducts various types of acoustical testing to make recommendations regarding insulation improvements; however, Johns Manville does not expressly teach that the determined improvement areas include acoustical weak links (claim 14), wherein the weak links include penetrating items, construction discontinuities, sound transmission through structural components, and cross-talk through ducts (claim 15) and wherein the weak links include components having component performance ratings less than the desired performance level (claim 62). However, Official Notice is taken that it is old and well-known in the art of acoustical consultation to assess acoustical weak links, including penetrating items, construction discontinuities, sound transmission through structural components, and

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cross-talk through ducts, and wherein the weak links include components having component performance ratings less than the desired performance level, in order to identify areas for acoustic-related improvement. Evaluation of as many of these elements as possible yields a more comprehensive acoustical assessment. Johns Manville's goal is to provide its customers with recommendations for insulation improvements; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's acoustical testing services to incorporate an assessment of improvement areas such that the determined improvement areas include acoustical weak links (claim 14), wherein the weak links include penetrating items, construction discontinuities, sound transmission through structural components; and cross-talk through ducts (claim 15) and wherein the weak links include components having component performance ratings less than the desired performance level (claim 62) in order to facilitate a more comprehensive analysis, thereby yielding better testing results and attracting more customers.

As per claims 16-19, Johns Manville makes recommendations to eliminate some of the structural members, while redesigning the panels and using a different material to create at least some of the panels, yet Johns Manville does not expressly teach that at least one of the enhancement solutions involves the addition of a sound control component (claim 16), wherein the sound control component is a sound control material installed in a wall, floor or ceiling assembly (claim 17), wherein the sound control component is a material for sealing wall, floor, and ceiling perimeters (claim 18), or

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wherein the sound control component is an acoustically enhanced door (claim 19).

However, Official Notice is taken that it is old and well-known in the art of sound control to reduce noise through the addition of a sound control component, such as one installed in a wall, floor or ceiling assembly, or a material used for sealing wall, floor, and ceiling perimeters, or an acoustically enhanced door. Johns Manville performs myriad acoustical testing services, yet the cited article only discloses a limited sample of recommendations provided to its customers. The concept of implementing sound control components in a building design is extremely widespread and serves as a solution to many noise reduction problems. As a matter of fact, Johns Manville provides fiberglass insulation, which is a common material used for sound control; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's acoustical testing service to make recommendations involving the addition of a sound control component (claim 16), wherein the sound control component is a sound control material installed in a wall, floor or ceiling assembly (claim 17), wherein the sound control component is a material for sealing wall, floor, and ceiling perimeters (claim 18), or wherein the sound control component is an acoustically enhanced door (claim 19) in order to provide its customers with more comprehensive solutions to their noise reduction problems, thereby attracting more customers.

Similarly, the indirect positioning of interior components (claim 20), including electrical outlets, air ducts, and fluid filled pipes (claim 21) are also well-known solutions to noise reduction problems. Also, other well-known noise reduction solutions involve

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the discontinuous construction of structural elements of the project (claim 22), wherein the at least one enhancement solution comprises the staggering of wall studs (claim 23) or wherein the at least one enhancement solution comprises the addition of a cut line in a floor or floor elements (claim 24). Again, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's acoustical testing service to make recommendations involving the indirect positioning of interior components (claim 20), including electrical outlets, air ducts, and fluid filled pipes (claim 21), and the discontinuous construction of structural elements of the project (claim 22), wherein the at least one enhancement solution comprises the staggering of wall studs (claim 23) or wherein the at least one enhancement solution comprises the addition of a cut line in a floor or floor elements (claim 24) in order to provide its customers with more comprehensive solutions to their noise reduction problems, thereby attracting more customers.

In reference to claim 28, Johns Manville implies the use of technology to conduct its acoustical testing and collect corresponding results, yet it does not expressly disclose that the modified project information (e.g., acoustically-related recommendations) is transferred from the sound control center (i.e., the laboratory) to a remote computer. However, Official Notice is taken that it is old and well-known in the art of testing and networking to provide testing results remotely to another user. This allows remotely located people to quickly, inexpensively, and conveniently collaborate on a project. Johns Manville's testing assists its customers in these customers' respective building projects, such as Herman Miller's office panel design. In other

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words, Johns Manville's testing results are ultimately used in collaboration with the building plans of its remotely located customers; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's modified project information (e.g., acoustically-related recommendations) to be transferred from the sound control center to a remote computer (claim 28) in order to facilitate that Johns Manville and its remotely located customers can quickly, inexpensively, and conveniently collaborate on a noise reduction project.

As per claims 29 and 30, Johns Manville makes recommendations to eliminate some of the structural members, while redesigning the panels and using a different material to create at least some of the panels, yet Johns Manville does not expressly teach the provision of a bill of materials *per se*, including related cost information. However, Higgins describes a specific scenario in which Johns Manville's customer Herman Miller takes recommendations from Johns Manville and incorporates them into an actual building design. Johns Manville's assessment also addresses potential for cost reduction as part of the noise reduction aspect of the building project. Furthermore, Official Notice is taken that it is old and well-known in the art of construction to convert an assessment of what materials are required and how much they cost into a formal bill of materials in order to place an order for the needed materials from a third party supplier. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention for Johns Manville to adapt its modified project information to include a bill of materials that

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includes cost information in order to facilitate the placement of an order for the needed materials from a third party supplier.

Furthermore, as per claims 31 and 61, Johns Manville's customers presumably implement its recommendations, as shown in the Herman Miller scenario. Also, as discussed in the rejection of claim 30 above, Johns Manville takes into account material costs in order to assess potential cost savings. Johns Manville does not explicitly provide a list of tasks based on the selected enhancement solutions (i.e., recommendations); however, Official Notice is taken that it is old and well-known in the art of project management to plan a list of tasks associated with accomplishing building recommendations and plan a budget accordingly based on both materials and labor costs. Task assignment facilitates efficient planning of a project so that the project is more likely to be completed in a timely fashion. Budget planning based on both materials and labor costs helps to ensure that the project is economically feasible. Since Johns Manville's customers presumably implement its recommendations, as shown in the Herman Miller scenario, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's modified project information to include a list of tasks based on the selected enhancement solutions (claim 31) as well as a budget including information related to both materials and labor costs (claim 61) in order to facilitate efficient planning of a project so that the project is more likely to be completed in a timely and economically feasible fashion.

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[Claims 32-59] Claims 32-59 recite limitations already addressed by the rejection of claims 1-31 and 60-63 above; therefore, the same rejection applies.

Regarding claim 32, Johns Manville implies the use of technology to conduct its acoustical testing and collect corresponding results, yet it does not expressly disclose the use of a central computer *per se* for receiving project information. Official Notice is taken that it is old and well-known in the art to utilize a central computer for gathering testing information in order to facilitate quick and accurate analysis of data via computer calculations by eliminating many elements normally associated with human error. Johns Manville's acoustical testing is fairly complex in nature; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with Johns Manville's testing at its laboratory a central computer for receiving project information in order to facilitate quick and accurate analysis of data via computer calculations by eliminating many elements normally associated with human error. Johns Manville's testing and analysis (including design recommendations) occur at its laboratory; therefore, the Examiner asserts that the modified version of Johns Manville's testing (including a central computer) would necessarily incorporate the central computer at the laboratory as well. Effectively, the central computer is interpreted as being located in a design department (claim 34) in the control center (claim 35), i.e., the laboratory, in a main facility (claim 36), i.e., the laboratory. (It should also be noted that the location of the central computer has no effect on the recited structure or functionality and therefore merits little, if any, patentable weight.)

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Further regarding claim 32, Johns Manville's recommends solutions for noise reduction; therefore, it is understood that some type of reviewer generates the proposed solutions. In line with the immediately preceding analysis, the Examiner asserts that the modified version of Johns Manville's testing (including a central computer) would necessarily incorporate the reviewer at the laboratory as well. Effectively, the reviewer is interpreted as being located in the control central (claim 37). (It should also be noted that the location of the reviewer has no effect on the recited structure or functionality and therefore merits little, if any, patentable weight.) However, Johns Manville fails to expressly state whether the reviewer is a human team of acoustical designers, a reviewing computer, or a combination thereof. Official Notice is taken that it is old and well-known in the art of consulting to generate solutions to a problem through a human team of designers, a computer, or a combination thereof. Utilizing a human team of designers provides a more personal touch to the consultation while a computer imparts greater accuracy and speed when conducting simulations, performing analyses, etc. Johns Manville necessarily utilizes either a human team of acoustical designers, a reviewing computer, or a combination thereof since it performs testing and provides recommendations based on the testing results. It is just not clear from the cited articles which of the three reviewer options is actually employed. However, in light of the fact that each of the three options is old and well-known, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement either a human team of acoustical designers (claim 38) or a reviewing computer (claim 39) as Johns Manville's reviewer in order to provide a more personal

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touch to the consultation (if a human team of acoustical designers is utilized) or impart greater accuracy and speed when conducting simulations, performing analyses, etc. (if a reviewing computer is utilized).

Regarding claim 40, Johns Manville fails to explicitly teach that the project information is transmitted to the central computer through a network from a user computer; however, Official Notice is taken that it is old and well-known in the art to gather project information at a central computer through a network from a user computer. For example, various participants in a project may contribute information to be collated at a central computer. This facilitates the quick and economic gathering of data from disparate locations to yield analysis based on the collection of gathered data. Johns Manville runs myriad tests for a given project (e.g., it ran more than 100 tests for Herman Miller's project, as disclosed in ¶ 25 of Higgins). In order to better accommodate the receipt of results from tests performed at different stations in the laboratory, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the modified version of Johns Manville's acoustical testing system to gather project information through transmission to the central computer through a network from a user computer to facilitate the quick and economic gathering of data from disparate locations (such as testing stations) to yield analysis based on the collection of gathered data.

As per claims 41 and 43, Johns Manville provides acoustical testing for many customers, including Herman Miller, who is evaluating various office panels (Higgins: ¶ 24). The cited articles do not expressly disclose an embodiment involving building

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plans for a residential structure *per se*; however, Johns Manville's testing is beneficial to any building structures requiring noise reduction considerations. Official Notice is taken that it is old and well-known in the art of residential construction to consider noise reduction issues when planning the structures of residential buildings. This consideration tends to increase the contentment of homeowners with the building developers. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to apply Johns Manville's acoustical testing to building plans for a residential structure in order to attract the business of building developers, thereby increasing its customer base.

As per claims 50 and 51, Johns Manville evaluates acoustical test results regarding fiberglass (Higgins: ¶¶ 23, 28), which is a type of sound absorbing material (claim 50) and hardboards, steel, and metal panels (Higgins: ¶¶ 26-27), which are examples of sound blocking materials.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:


**Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**

or faxed to:

(703)305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

(703)746-7048 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.



Susanna M. Diaz
Primary Examiner
Art Unit 3623
April 27, 2004